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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/549,002    04/14/00    HASSLER

P    7330\*1

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EXAMINER
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MARKOVICH, K

ART UNIT	PAPER NUMBER
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3671  
DATE MAILED:

04/11/01

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/549,002

Applicant(s)

Hassler

Examiner

Kristine Markovich

Group Art Unit

3671



☒ Responsive to communication(s) filed on Apr 14, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-12 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-12 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 3671

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaftner (US Patent 5,308,188).

Shaftner discloses a resilient, replaceable collar having a body with upper and lower surfaces (10, figure 1). An opening is provided through the center and sized to accommodate the outer periphery of the roadway structure (12, figure 1), and the side walls of the collar are sloped and extend downward from the upper surface of the body to the lower surface of the body (11, figure 1).

The collar is made from an elastomeric material (column 2, lines 1-3) and the specific roadway structures it surrounds are utility access holes, such as manhole covers, gas and water utility covers, storm sewer inlets, etc (column 1, lines 9-11). The roadway pavement is stripped such that the collar is used for placement around an access hole which is temporarily elevated (column 1, lines 9-18). The collar is circular with a central circular opening to snugly engage the access hole. The collar can also be designed to be rectangular in shape with a circular central opening (figure 4). The collar body has a height equal to the distance the roadway structure extends above the roadway pavement (figures 2 and 3). The collars can be stacked one on top of the other to provide for a riser effect such that together they have a height equal to the distance the roadway structure extends above the roadway pavement (column 1, lines 50-52).

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***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaftner in view of McGinnis (US Patent 4,9178,531).

Shaftner discloses the claimed device except for the upper surface is in planar alignment with the upper surface of the roadway structure. McGinnis discloses that it is known in the art to provide an upper surface of a collar in planar alignment with the upper surface of a roadway structure (figure 5) such that the surfaces can be aligned easily making transition of the vehicle tire to the roadway structure smooth. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the collar of Shaftner with the planar surface of McGinnis, in order to more easily align the surfaces making transition of the vehicle tire to the roadway structure more even.

***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristine M. Markovich whose telephone number is (703) 305-1676. The examiner can normally be reached on Mon-Fri from 8:00 am to 5:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703) 308-3780. The fax phone number for this Group is (703)305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group 3600**



**KMM**

**April 8, 2001**